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BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

NEBRASKA DEPARTMENT
OF INSURANCE

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	
)	FINDINGS OF FACT,
PETITIONER,)	CONCLUSIONS OF LAW,
)	RECOMMENDED ORDER AND
vs.)	ORDER
)	
JULIE ANDRETTI,)	CAUSE NO.: A-1669
)	
RESPONDENT.)	

This matter came on for hearing on the 12th day of July, 2006, before Janette L. Adair, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Martin W. Swanson. Julie Andretti ("Respondent") was not present and was not represented by counsel. The Rules of Evidence were not requested and the hearing was governed accordingly. The proceedings were tape recorded by Sue Kuzelka, a licensed Notary Public. Testimony was provided by Barbara Ems, Investigator in the Consumer Affairs Division. Evidence in the form of exhibits was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident insurance producer whose registered address with the Department is P.O. Box 6754, Lincoln, NE 68506. (Ex. 3).
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers.
3. On or about May 31, 2006, the Petition and Notice of Hearing were served upon Respondent by mailing the same to Respondent's registered business address by

certified mail, return receipt requested. On or about June 21, 2006, the certified mail was returned by the United States Postal Service marked "Unclaimed." (Ex. 1)

4. On or about June 21, 2006, a copy of the Order Continuing Hearing was served upon Respondent by mailing the same to Respondent's registered business address by certified mail, return receipt requested. As of July 12, 2006 neither the certified mail nor the return receipt card have been returned to the Department of Insurance. (Ex. 1)

5. Barbara Ems (Ems), Investigator of the Consumer Affairs Division of the Department, testified as follows: Ems was assigned to investigate a complaint filed by Betty Buman (Buman) against Respondent; Ems mailed a written inquiry to Respondent regarding this complaint on or about April 11, 2006 (Ex. 4); Ems received a response from Respondent on May 3, 2006 (Ex. 5); Respondent's May 3, 2006 response discussed Respondent meeting with Silva Chauza, and did not mention Buman nor provide any of the information requested in the April 11, 2006 inquiry; Ems mailed a letter to Respondent on or about May 3, 2006 advising Respondent that the response must be redone and requiring that Respondent provide a response by May 12, 2006. (Ex. 6); Ems received a response from Respondent on May 18, 2006 (Ex. 7).

6. Respondent provided a business card to Buman indicating that Respondent was "a part of the Premeir [sic] Senior Marketing Group" and that Respondent held a CSA designation. (Ex. 2)

7. Respondent's response to Ems states that Respondent was working "with and under" Premier Senior Marketing, Inc. until February 2006. (Ex. 7)

8. Neither the licensing records of Respondent or Premier Senior Marketing Group indicate that Respondent is, or was, a part of that group. (Ex. 3)

9. Respondent's response to Ems states that she did not renew her CSA designation. (Ex. 7)

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb. Rev. Stat. §§ 44-101.01 and 44-4047 *et seq.*

2. The Department has personal jurisdiction over Respondent.

3. Pursuant to Neb. Rev. Stat. § 44-1525(11), "it shall be an unfair trade practice on the filing of any insurer, upon receipt of a written inquiry from the department to respond to such inquiry or request additional reasonable time to respond within fifteen working days."

4. Pursuant to Neb. Rev. Stat. § 44-4059(1), the Director may suspend, or revoke an insurance producer's license, or levy an administrative fine for any one or more of the following causes: (b) violating any insurance law or violating any rule, regulation, subpoena or order of the director, (h) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

5. Respondent violated Neb. Rev. Stat. §§ 44-1525(11) and 44-4059(1)(b) by failing to respond to the April 11, 2006 written inquiry of the Department until May 18, 2006.

6. Respondent violated Neb. Rev. Stat. § 44-4059(1)(h) through the following actions:

- a. Distributing a business card indicating Respondent has a CSA designation when Respondent no longer has that designation.

b. Failing to pick up certified mail from the Department.

7. Pursuant to Neb. Rev. Stat. § 44-4059(4) in lieu of any applicable denial, suspension, or revocation of a license, an insurance producer violating Neb. Rev. Stat. § 44-4059(1) may be subject to an administrative fine of not more than one thousand dollars per violation.

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent pay an administrative fine of one thousand dollars (\$1,000.00) due within 30 days after the Director of Insurance or his designee signs the certificate adopting this order.

Dated this 24th day of July, 2006.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



Janette L. Adair
Hearing Officer

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Julie Andretti, Cause No. A-1669.

Dated this 24th day of July, 2006.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon the Respondent by mailing a copy to Respondent at P.O. Box 6754, Lincoln, NE 68506 by certified mail, return receipt requested, on this 24th day of July, 2006.

Tracy A. Lunn